IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2675 OF 2007

M/s.Aasu Plastics (P) Ltd. ... Petitioner.

V/s.

The Union of India & another. ... Respondents.

Mr.Sridharan with Prakash Shah i/b. PDS Legal
for the petitioner.

Mrs.S.V.Bharucha with Mrs.Heena Shah
for the respondents.

CORAM : DR.S.RADHAKRISHNAN and V.C.DAGA, JJ.

DATED : 25th April 2007.

P.C. :

. Heard learned counsel for the petitioner and learned counsel for the respondents.

2. Rule, returnable forthwith.

. By consent of parties petition is heard finally.

3. By this petition, the petitioner is contending that the order-in-original was passed by the Additional Commissioner of Customs dated 16th February 2004 without any notice being served on the petitioner. Even in the said order, it is clearly mentioned that notice sent was returned back undelivered by the postal authorities with the remark

"Not known". The call notice was sent to the petitioner on the address "M/s.Asu Plastics Pvt.Ltd., Bombay Central, Mumbai", whereas the address of the petitioner shown in the demand notice is "M/s.Asu Plastics Pvt.Ltd., 204, Udyog Bhavan, Sonawala Road, Goregaon (E), Mumbai- 8."

4. The learned counsel for the respondents fairly states that the respondents are not having any acknowledgement evidencing service of notice. Impugned order is liable to be quashed and set aside on this limited ground only.

5. In the result petition is allowed. Impugned order dated 16th February 2004 is quashed and set aside. Matter is remitted back for consideration afresh. Learned counsel for the respondents states that respondent No.3 will be the appellate authority. Learned counsel for the petitioner, therefore, states that the petitioner shall appear before respondent No.3 - Assistant Director, Directorate of Enforcement on 7th May 2007 at 11.00 a.m. so as to enable him to fix schedule of hearing and dispose of the case. It is made clear that the respondent shall decide the case of the petitioner on its own merits without getting influenced by the impugned order, which we have set aside. Rule is made absolute in terms of this order.

(V.C.DAGA, J.) (DR.S.RADHAKRISHNAN, J.)